

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

William Ashby,
also known as William Mark Ashby,

Plaintiff,

v.

Warden Eagleton; Security Staff Evans CI,

Defendants.

Civil Action No.: 8:14-cv-03330-JMC

ORDER

Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. § 1983. This matter is before the court for review of the magistrate judge's Report and Recommendation ("Report") (ECF No. 17), filed on September 30, 2014, recommending that Defendant Security Staff Evans CI be dismissed from this action *without* prejudice and without issuance and service of process. Additionally, before the court is the review of the magistrate judge's Report (ECF No. 26), filed on October 14, 2014, recommending that Plaintiff's Motion for TRO (ECF Nos. 12 and 21) seeking an *ex parte* order be denied and the Motion for Preliminary Injunction should remain pending. Finally, before the court is the review of the magistrate judge's Report (ECF No. 42), filed on November 14, 2014, recommending Plaintiff's Motion for Preliminary Injunction (ECF Nos. 12 and 21) be denied. The Reports set forth in detail the relevant facts and legal standards on this matter which the court incorporates herein without a recitation.

The magistrate judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. "The Court is not bound by the recommendation

of the magistrate judge but, instead, retains responsibility for the final determination.” *Wallace v. Hous. Auth.*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citing *Matthews v. Weber*, 423 U.S. 261, 271 (1976)). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the magistrate judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his rights to file objections to the Reports (ECF Nos. 17 at 5, 26 at 4, and 42-1). However, Plaintiff filed no objections to the Reports.

In the absence of objections to the magistrate judge's Reports, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Reports and the records in this case, the court finds the Reports provide an accurate summary of the facts and law. The court **ACCEPTS** the Reports and Recommendations (ECF Nos.17, 26 and 42). For the reasons articulated by the magistrate judge, it is therefore **ORDERED** that Defendant Security Staff Evans CI is **DISMISSED**

from this action *without* prejudice and without issuance and service of process (ECF No. 17), and Plaintiff's Motion for TRO (ECF Nos. 12 and 21) seeking an *ex parte* order is **DENIED**. It is further **ORDERED** that Plaintiff's Motion for Preliminary Injunction (ECF Nos. 12 and 21) are **DENIED**.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

January 20, 2014
Columbia, South Carolina